



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 07168-99

17 February 2000

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested that the original fitness report for 13 September to 31 December 1990 be replaced with a supplemental report for the same period.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 15 November 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Although they did not consider it particularly important in deciding your case, the Board did wish to bring to your attention that item 13b ("Additional Duties") of the revised fitness report you want inserted in your record still shows a mark of "not observed," while the reporting senior's letter of 21 September 1999 states this item "should be marked as outstanding instead of not observed." In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610

MMER/PERB

NOV 15 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED], [REDACTED] USMC

Ref: (a) SSgt. [REDACTED]'s DD Form 149 of 21 Sep 99
(b) MCO P1610.7C w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 9 November 1999 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 900913 to 901231 (AN), and its replacement with a revised version, was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The Reporting Senior of record, [REDACTED], provides a letter (and revised fitness report) wherein he states that he "... was not aware. . ." of several collateral duties assigned to the petitioner at the time. Given his new-found knowledge, the Reporting Senior now believes that the six marks of "excellent" in Section B should be "outstanding"; that a "not observed" mark in Item 13b (additional duties) should be "outstanding"; and that the petitioner should be marked "outstanding" in Item 15a.

3. In its proceedings, the PERB concluded that the currently filed fitness report is both administratively correct and procedurally complete as written and filed.

a. Notwithstanding [REDACTED]'s letter, the Board is not convinced or otherwise persuaded that the fitness report of record is either inaccurate or unfair. Likewise, the Board is hard-pressed to accept [REDACTED]'s comment that the petitioner performed all of her collateral duties in an "outstanding manner" when he states that when he prepared the report he was not even aware that she had the duties. His logic is disjointed, at best.

b. Although not necessarily germane, the Board is hasty to observe that the challenged fitness report is strikingly similar to other evaluations she received from 1990-1992.

.Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] USMC

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
[REDACTED]
[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps